

INTERVENTION ORIGINAL



0000063428

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Jeff Hatch-Miller – Chairman
William A. Mundell
Mike Gleason
Kristin K. Mayes
Barry Wong

2006 NOV -8 P 4:49

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. W-01303A-05-0718
ARIZONA-AMERICAN WATER COMPANY,)
INC., AN ARIZONA CORPORATION, FOR)
APPROVALS ASSOCIATED WITH A)
PROPOSED TRANSACTION WITH MARICOPA)
COUNTY MUNICIPAL WATER)
CONSERVATION DISTRICT NUMBER ONE TO)
ALLOW THE CONSTRUCTION OF A SURFACE)
WATER TREATMENT FACILITY KNOWN AS)
THE WHITE TANKS PROJECT.)

Application for
leave to intervene of
the Maricopa Water District
Arizona Corporation Commission
DOCKETED

NOV -8 2006

DOCKETED BY

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The Maricopa County Municipal Water Conservation District Number One, commonly known as the Maricopa Water District ("District" or "MWD"), respectfully applies for leave to intervene in this proceeding under A.A.C. R14-2-105.

I. Introduction.

This case presents two important questions: (1) who should construct a regional water treatment facility for the West Valley ("White Tanks Plant"); and (2) how should the facility be financed? These questions vitally impact the District and its landowners. The District's very purpose is to ensure and encourage water conservation, such as the use of renewable surface water to limit the depletion of groundwater. The District plans to build the White Tanks Plant. And the District's landowners will be directly impacted by the proposed financing plan in this case.

On October 11, 2005, Arizona-American Water Company ("Arizona-American") filed an Application in this case for approvals related to building and financing the White Tanks Plant in conjunction with the District. The Application contemplated that the White Tanks Plant would be

1 “financed, built and owned by” the District.¹ Arizona-American gave public notice of this
2 Application. However, Arizona-American later asked that the procedural schedule in this case be
3 suspended. The case then sat dormant for months.

4 On September 1, 2006, Arizona-American filed a Revised Application. The Revised
5 Application is radically different than the original application. Under the Revised Application,
6 Arizona-American proposes to cut the District out of the process and build the Regional Plant by
7 itself. The original Application proposed a capital lease with a small increase in hook-up fees,
8 while the Revised Application proposed a much larger increase in hook-up fees. Arizona-
9 American never gave public notice of the Revised Application.

10 MWD believes that the Revised Application is inaccurate in a number of respects. For
11 example, it states that “MWD no longer wishes to build, finance, and own the White Tanks Plant.”²
12 This is flatly wrong. The Revised Application also states that the “alternative to the White Tanks
13 Plant would be business as usual – continuing to rely on groundwater supplies.”³ Again, this is
14 flatly wrong. The District stands ready, willing, and able to build the White Tanks Plant. The
15 Revised Application presented two financing options for the White Tanks Plant. However, it left
16 out another option Arizona-American was well aware of: it did not note that the plant could be
17 financed and built by the District. As a public entity, the District has access to low-cost financing,
18 which would eliminate the need for hook-up fees.

19 On October 27, 2006, Staff filed a Staff Report supporting Arizona-American, and
20 recommending that hook-up fees be imposed. However, Staff was likely unaware of the inaccurate
21 statements made by Arizona-American.

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25 ¹ Revised Application of Arizona-American filed Sept. 1, 2006 at page 1 (describing original
26 application).

27 ² Id. at 2.

³ Id. at 7.

1 **II. Description of the District.**

2 The District is a political subdivision of the state and is considered a municipal corporation
3 under Article 13, Section 7 of the Arizona Constitution. The District has served the west valley for
4 more than 75 years. The District provides service to more than 35,000 acres, and it provides the
5 west valley with an average of more than 40,000 acre-feet of surface water per year. The District
6 has been closely involved in water conservation efforts and studies throughout the west valley,
7 including the study that lead to the White Tanks Plant idea. The District is governed by an elected
8 board. The boundaries of the District nearly match the boundaries Arizona-American's Agua Fria
9 service territory.

10 **III. The District should be granted intervention.**

11 Persons who are "directly and substantially affected by the proceedings" may apply to
12 intervene. A.A.C. R14-3-105. Here, the District is affected in many ways. Indeed, the District's
13 name is included in the caption of this proceeding, and the District is referred to throughout
14 Arizona-American's filings. If Arizona-American builds the White Tanks Plant, the District's plan
15 to do so will be thwarted. The White Tanks Plant is a key part of the district's plans for promoting
16 water conservation, serving its landowners and fulfilling its statutory duties. Moreover, Arizona-
17 American has made incorrect statements about the District. Most importantly, the landowners of
18 the District will be forced pay to unjustified and unnecessary fees if Arizona-American succeeds.
19 In contrast, under the District's plan, such fees are unnecessary. The District has a duty to represent
20 the interests of its landowners, and the District believes that intervention in this case is consistent
21 with this duty.

22 Arizona-American may argue that the District's intervention should be denied because the
23 District will cause the issues to be "unduly broadened." A.A.C. R14-3-105(B). Arizona-American
24 extensively refers to the District, and its plans, in both the original and revised applications. The
25 District's plans are thus already at issue. Likewise, the question of whether the hook-up fees are
26 appropriate is clearly raised by the Revised Application. And in any event, bringing forward a
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1 cheaper, better solution for Arizona-American's customers, and the District's landowners, is in the
2 public interest and should not be considered "undue."

3 Arizona-American may also argue that the District's intervention too late. However, the
4 Revised Application was filed little more than two months ago, and the Staff Report came out little
5 more than two weeks ago. Moreover, no public notice was given of the Revised Application,
6 which was very different from the original application. As soon as the District became aware of the
7 Staff Report, it diligently worked to retain counsel with experience in Commission matters. And
8 once counsel was retained, diligent efforts were made to file this motion. Moreover, the District
9 has no desire to cause undue delay to the Commission's proceedings, and it will act quickly in these
10 matters. The District is willing to commit to filing its comments on the Staff Report within one
11 week (i.e. by Wednesday, November 15, 2006).

12 **IV. Conclusion.**

13 The District has a duty to promote conservation and to serve its landowners. It has done so
14 for many years. In pursuit of that duty, the District believes that it should intervene in this case.
15 These proceedings will have a large impact on the District and its landowners. The District will
16 make every effort to not delay these proceedings. Accordingly, the District respectfully requests
17 that it be allowed to intervene in this case.

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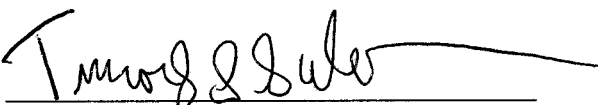
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2 WHEREFORE, the District requests that the Commission issue a procedural order:

3 (1) granting intervention to the District; and

4 (2) directing that the District file its comments no later than November 15, 2006.

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6 RESPECTFULLY SUBMITTED this 2nd day of November 2006.

7
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9
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1 Original and 13 copies of the foregoing
2 filed this 8th day of Nov 2006 with:

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5 Copy of the foregoing hand-delivered/mailed
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